

# TERMS AND CONDITIONS

**Provider:** BILTON Internatinal GmbH  
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## 1 GENERAL PROVISIONS/SCOPE

1. The following Terms and Conditions shall apply to all present and future business relationships in which Bilton® acts as the seller/supplier and the customer is legally regarded as trader in the meaning of § 1 para 1 lit. 1 Consumer Protection Act. Amendments to the Terms and Conditions shall be sent to the Customer by e-mail and can be called up on the website and saved. If the Customer does not object within 2 weeks of the receipt of the amended terms, his/her silence shall be deemed agreement to the amended Terms and Conditions.
2. Deviating, conflicting or supplementary terms and conditions of the Customer shall not become part of the contract, even if we have knowledge thereof, unless we expressly consent to the application of such terms and conditions in writing.

## 2 CONCLUSION OF THE CONTRACT

1. Our quotations must be regarded as invitations to prepare an offer and shall be non-binding. The delivery dates quoted on orders or order confirmations shall be non-binding. Agreed dates shall only be binding if they have been expressly confirmed as fixed dates in writing.
2. By ordering a product, the Customer enters into a binding contract. In the event of a product ordered by electronic means, we shall confirm the receipt of the order from the Customer. The confirmation of receipt shall not constitute a binding acceptance of the order. The order confirmation shall only constitute a declaration of acceptance if we expressly declare this.
3. In the case of custom-made products, we shall be entitled to make deliveries of 10 % more or less than the ordered quantity.
4. In the event that we are not correctly or properly supplied ourselves, we shall have the right to withdraw from the contract without setting a grace period. In the event of the non-availability or the partial availability of the goods, the Customer shall be immediately informed. The payment shall be reimbursed immediately.
5. Oral agreements shall have no validity. Additions must be made in writing and confirmed by us. Quotations shall be non-binding, unless the contrary is expressly agreed in writing. The Customer must pay the agreed, but in any case an appropriate, fee for the creation of binding quotations.
6. By placing an order with us, the Customer agrees to accept invoices and, where applicable, credit notes in electronic form!
7. We shall reserve the right of ownership and copyright to illustrations, drawings, calculations and other documents. This shall also apply to written documents that are identified as confidential. Before they are passed on to third parties, the Customer requires our express, written consent.

## 3 PRICES/REMUNERATION

1. The indicated prices are daily prices and shall apply until they are revoked. All quoted prices shall be subject to change and shall be in euros, unless indicated otherwise. The quoted prices shall be subject to change and, therefore, shall only constitute reference values. The statutory VAT shall not be included in all of the quoted prices.
2. The final calculation of the price shall take place on the basis of the agreed sales discounts or those valid on the date of delivery. The calculations in the quotation shall only apply if an order is placed for the entire quantity of the goods in the quotation.
3. The prices quoted by us shall be ex stock Gewerbepark Harham 2, 5760 Saalfelden, Austria or ex works, Gewerbepark Harham 2, 5760 Saalfelden, Austria, in each case, unless otherwise agreed for individual special products, not including installation, but including packaging.

4. In the event of deliveries in foreign currencies, we shall be entitled in any event to exercise our discretion on the due date, such that we request the amount receivable either in euros or in the foreign currency which originally formed the basis for the quotation (rate of exchange at the time when the payment falls due).
5. Our invoices must be paid net, in cash, within 30 days, unless otherwise agreed. In the event of a default in payment, we shall be entitled to charge default interest to an amount of 9.2% above the basic interest rate, but at least 12% p.a., from the due date.
6. Incoming payments shall be credited against costs that have already been incurred (reminders, record keeping, collection etc.), then against interest that has already accrued and finally against the outstanding capital; in all cases, the payments shall be credited against the debt with the oldest due date first.
7. We are not obliged to accept bills of exchange or cheques. If, however, we accept such documents, this shall always take place on account of payment and exclusively against the settlement of any discount and collection expenses by our Customer. The acceptance of the above documents shall not be regarded by us as a cash payment, for which reason no discount can be granted on this payment. A postponement of the originally the originally agreed due date shall not take place upon the acceptance of the documents by us. We are entitled, at any time, to demand the outstanding amount against the return of these documents.
8. We are not obliged to perform any further delivery from any ongoing contract before the payment in full of the invoice amounts that are due, including default interest, other expenses and costs. If the Customer is in default with a payment that is due or if a substantial deterioration in his/her financial experiences occurs, we may demand a cash payment for any outstanding deliveries from any ongoing contract before the delivery of the goods. In the event that the Customer is in default with a due payment, all other payments that are not yet due shall become due immediately, e.g. including any current bills of exchange.
9. The Customer shall only have a right of set off if his/her counterclaims have been legally established or have been recognised by us.
10. The Customer undertakes to bear all the costs associated with the collection of the amount receivable, in particular collection expenses or other costs for an appropriate prosecution.

#### **4 RETENTION OF TITLE**

1. We shall retain the ownership of the delivered goods until the purchase price has been paid in full.
2. The Customer shall be entitled to sell the reserved goods in the ordinary course of business, as long as he/she is not in default. He/she hereby assigns to us all amounts receivable which he/she accrues as a result of a resale to a third party, to the amount of the invoice total, and undertakes to add a corresponding note in his/her books or on his/her invoices. We accept the assignment. After the assignment, the Customer shall be authorised to collect the receivable. We reserve the right to inform the re-purchaser of the goods of the due notice that has been issued and to collect the amount receivable ourselves once the Customer fails to comply with his/her payment obligations and is in default of payment.
3. The Customer must inform us immediately, in writing, of all third party access to the goods, in particular of enforcement measures, as well as of any damage to or the destruction of the goods. The goods delivered subject to a retention of title must be kept safe and insured sufficiently against all risks that are foreseeable in the ordinary course of business.
4. The treatment and processing of the goods by the Customer shall always take place in our name and on our behalf. If the goods are processed, we shall acquire co-ownership of the new item in proportion to the value of the goods delivered by us. The same shall apply if the goods are processed or mixed with other goods which do not belong to us.
5. In the event of conduct by the Customer that is contrary to the contract – in particular a delay in payment – we shall be entitled to withdraw from the contract and to demand the return of the goods or, if applicable, the assignment of the claims for the return of the goods.
6. The Customer is obliged to handle the goods with care. As long as our right of ownership exists, the goods shall be insured by the Customer against loss and depreciation, against vandalism, fire, theft and transport risk, as well as water damages.

#### **5 TRANSFER OF RISK/DELIVERY**

1. We are only obliged to execute the contract once the Customer has complied with all his/her obligations that are necessary for the delivery (e.g. receipt of the agreed down payment). The delivery periods and dates shall be adhered to by us as far as possible. They shall not be binding, unless they are expressly agreed as binding, and shall always be understood as the provisional time for the provision and handover to the Customer. A withdrawal from the contract by the Customer on account of a default in delivery shall only be possible by setting an appropriate grace period of at least 4 weeks. The withdrawal must be asserted in writing. The right of withdrawal shall refer only to the part of the delivery or service affected by the default.
2. The risk of the accidental loss or destruction of the goods shall be transferred to the Customer upon the handover of the goods, or – in the event of a shipment – upon the delivery of the item to the forwarding agent, the carrier or any other person or institution designated to perform the shipment.
3. If the shipment is delayed at the request of the Customer, the risk shall be transferred to the latter with the notification of the readiness for shipment. The Customer must reimburse the costs caused by the delayed shipment.

4. The shipment shall, at our discretion, take place ex stock Gewerbepark Harham 2, 5760 Saalfelden, Austria or ex works Gewerbepark Harham 2, 5760 Saalfelden, Austria, in each case. We reserve the right to choose the shipping method and the route. Partial deliveries which the Customer can be reasonably expected to accept shall be permissible.
5. We shall not be responsible for delays in delivery and performance due to force majeure and due to events that make our performance considerably more difficult or impossible on more than a temporary basis – including, in particular, war, strikes, lockouts, administrative orders etc., even if they occur at the premises of our manufacturers or suppliers or their sub-suppliers – even in the case of bindingly agreed periods and dates. They shall entitle us to postpone the delivery or performance by the duration of the hindrance plus a reasonable starting-up period, or to withdraw from the contract, in full or in part, on account of the part that has not yet been fulfilled.

## **6 WARRANTY/INSPECTION OF THE GOODS**

1. We shall provide a warranty for defects in the goods through rectification, replacement or a credit note. If a rectification or a replacement is not possible or feasible, the Customer may, at his/her discretion, demand a price reduction or, insofar as it is a matter of a minor defect, the rescission of the contract (cancellation).
2. Unless otherwise agreed, the statutory warranty period shall apply. These conditions shall also apply to delivery and service items that are firmly connected to a building or land. The warranty period shall commence at the time of transfer of risk in accordance with Clause 5. Deviations therefrom require written form or shall be indicated on our offers.
3. For the condition of the goods, only the product description as agreed shall apply. Public statements, promotions or advertising shall not constitute an indication of the quality of the goods in accordance with the contract. No "purchase on the basis of samples" shall be agreed as the result of the provision of samples prior to or on the occasion of the conclusion of the contract, i.e. these shall only be illustrative samples which show the approximate character of the goods. Particular characteristics are not agreed as a result of these.
4. No warranty, guarantee or liability of any kind shall be assumed for reduced price goods and for rejected goods delivered in accordance with the agreement.

## **7 LIMITATIONS OF LIABILITY AND INDEMNITY**

1. Beyond the scope of the application of the product liability law, our liability is limited only to instances of intent or gross negligence. However, this limitation of liability does not apply to compensation for personal injury and the breach of main contractual obligations by us. We shall not be liable for indirect damage, loss of profit, loss of interest, failure to make savings, consequential and pecuniary damage and damage from claims by third parties, provided that we are only responsible for slight negligence and there is no breach of main contractual obligations on our part. Justified claims for damages by the customer are in any case limited to the amount of the value of the delivery of goods, but no more than the sum covered by our insurance.
2. We are not liable for any damages caused by improper or abnormal use, natural wear and tear or inaccurate or careless handling or storage.
3. All damage claims against us out of or in connection with the relevant individual contract shall come under the statute of limitation after the expiry of one year from the day on which the damage became known to the Customer, in any case not later than three years from the day on which the damage became known to the Customer, unless statutory law provides otherwise.

## **8 FINAL PROVISIONS**

1. Austrian law shall apply exclusively to the exclusion of the conflict of laws provisions. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.
2. The local and competent Austrian court for our registered place of business is agreed as the place of jurisdiction for all disputes arising directly or indirectly from the contract. We shall, however, have the right to also sue the Customer at his/her general place of jurisdiction.
3. If individual provisions of the contract with the Customer, including the present Terms and Conditions, are or become invalid, in part or in full, this shall not affect the validity of the remaining provisions. The completely or partially invalid provision shall be replaced by a provision which comes as close as possible to the invalid provision in terms of its economic result.
4. The data related to our business relationships (in particular name, address, telephone and telefax numbers, e-mail addresses, order, delivery and billing address, order date, ordered or delivered products or services, number of pieces, price, delivery dates, payment and reminder data, etc.) are stored and processed in accordance with Article 6 of the EU GDPR (<https://www.biltongroup.com/en/privacy-policy/>). The supplier has the right of withdrawal at any time. We take all technically reasonable measures to protect the customer data stored with us. The data will not be shared with third parties and will only be used for the purpose of doing business.